

AMENDED IN SENATE JULY 5, 2005

AMENDED IN SENATE JUNE 2, 2005

AMENDED IN ASSEMBLY APRIL 19, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 746

Introduced by Assembly Member Blakeslee

February 17, 2005

An act to amend Section 1748.1 of the Civil Code, and to add Section 755 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 746, as amended, Blakeslee. Public utilities: payment of billings.

Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state, including ~~an electrical or, gas, or water corporation~~ *corporations*. Existing law authorizes the commission to establish rules for all public utilities, subject to control by the Legislature. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

Existing law prohibits any retailer in a sales, service, or lease transaction with a consumer, from imposing a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means.

This bill would require the commission to authorize an electrical ~~or, gas, or water~~ corporation to offer ~~convenient~~ credit card and debit card bill payment options. The bill would authorize an electrical ~~or,~~

gas, or water corporation to ~~pass on~~ recover reasonable transaction fees costs incurred by the electrical or, gas, or water corporation in the form of fees charged to from those customers that choose to pay by those payment options. The bill would require the commission to determine the reasonableness of any transaction fees costs charged to customers that choose to pay by a convenient credit card or debit card bill payment option. The bill would require the commission to determine how any associated costs or potential savings resulting to as a result of customers choosing to pay by a convenient credit card or debit card bill payment option shall be passed on to electrical or, gas corporation, or water corporation customers.

The bill would exclude from the existing prohibition upon a retailer imposing a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means, a charge by an electrical or, gas, or water corporation that is approved by the commission pursuant to the provisions that would be added by this bill.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1748.1 of the Civil Code is amended to
- 2 read:
- 3 1748.1. (a) No retailer in any sales, service, or lease
- 4 transaction with a consumer may impose a surcharge on a
- 5 cardholder who elects to use a credit card in lieu of payment by
- 6 cash, check, or similar means. A retailer may, however, offer
- 7 discounts for the purpose of inducing payment by cash, check, or
- 8 other means not involving the use of a credit card, provided that
- 9 the discount is offered to all prospective buyers.
- 10 (b) Any retailer who willfully violates this section by
- 11 imposing a surcharge on a cardholder who elects to use a credit
- 12 card and who fails to pay that amount to the cardholder within 30
- 13 days of a written demand by the cardholder of to the retailer by
- 14 certified mail, shall be liable to the cardholder for three times the
- 15 amount at which actual damages are assessed. The cardholder
- 16 shall also be entitled to recover reasonable attorney's fees and
- 17 costs incurred in the action.

1 A cause of action under this section may be brought in small
2 claims court, if it does not exceed the jurisdiction of that court, or
3 in any other appropriate court.

4 (c) A consumer shall not be deemed to have elected to use a
5 credit card in lieu of another means of payment for purposes of
6 this section in a transaction with a retailer if only credit cards are
7 accepted by that retailer in payment for an order made by a
8 consumer over a telephone, and only cash is accepted at a public
9 store or other facility of the same retailer.

10 (d) Charges for third-party credit card guarantee services,
11 when added to the price charged by the retailer if cash were to be
12 paid, shall be deemed surcharges for purposes of this section
13 even if they are payable directly to the third party or are charged
14 separately.

15 (e) It is the intent of the Legislature to promote the effective
16 operation of the free market and protect consumers from
17 deceptive price increases for goods and services by prohibiting
18 credit card surcharges and encouraging the availability of
19 discounts by those retailers who wish to offer a lower price for
20 goods and services purchased by some form of payment other
21 than credit card.

22 (f) This section does not apply to charges for payment by
23 credit card or debit card that are made by an ~~electrical or gas~~
24 *electrical, gas, or water* corporation and approved by the Public
25 Utilities Commission pursuant to Section 755 of the Public
26 Utilities Code.

27 SEC. 2. Section 755 is added to the Public Utilities Code, to
28 read:

29 755. (a) It is the intent of the Legislature ~~that an~~ *that*:

30 (1) ~~An electrical or gas~~ *electrical, gas, or water* corporation
31 that offers customers ~~convenient~~ credit card or debit card
32 payment options, may recover the *reasonable* expenses incurred
33 by the ~~electrical or gas~~ *electrical, gas, or water* corporation for
34 providing the customers the option of paying their bills by credit
35 card or debit card, ~~while ensuring that only~~ *card*.

36 (2) *Only* the customers that choose to use these payment
37 options incur the additional charge and that no portion of the
38 expense is shifted to customers that do not choose to pay a bill by
39 credit card or debit card, *unless and until the commission*

1 *determines that the benefits to ratepayers exceeds the net cost of*
2 *accepting those cards.*

3 *(3) The acceptance of credit cards or debit cards neither*
4 *increases nor decreases the profitability of the electrical, gas, or*
5 *water corporation.*

6 *(b) An ~~electrical or gas~~ electrical, gas, or water corporation*
7 *may offer ~~convenient~~ credit card and debit card bill payment*
8 *options, if approved by the commission. The ~~electrical or gas~~*
9 *electrical, gas, or water corporation may ~~pass on reasonable~~*
10 *~~transaction fees~~ recover reasonable transaction costs incurred by*
11 *the ~~electrical or gas~~ electrical, gas, or water corporation in the*
12 *form of fees charged to only from those customers that choose to*
13 *pay by those payment options.*

14 *(c) The commission shall determine through existing*
15 *regulatory mechanisms the reasonableness of ~~any transaction fees~~*
16 *costs charged to customers that choose to pay an ~~electrical or gas~~*
17 *electrical, gas, or water corporation by a ~~convenient~~ credit card*
18 *or debit card bill payment option pursuant to this section. The*
19 *commission shall determine how any associated costs or*
20 *potential savings as a result of those customers paying by the*
21 *~~convenient~~ credit card or debit card payment option shall be*
22 *passed on to ~~electrical or gas~~ electrical, gas, or water corporation*
23 *customers. Notwithstanding subdivision (b), an electrical, gas, or*
24 *water corporation may recover the cost of accepting credit cards*
25 *or debit cards from all customers if the commission determines*
26 *that the benefits to ratepayers exceeds the net cost of accepting*
27 *those cards, taking into account the cost savings to the*
28 *corporations resulting from credit card and debit card*
29 *acceptance.*